

The Butler Weekly Times.

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BUTLER, MISSOURI, WEDNESDAY OCTOBER 24, 1883.

NO 47

THE JAIL PROPOSITION.

The Attorney General's Opinion on the Proposed Appropriation

The recent order of the County Court of Bates county appropriating \$10,000 from monies received from dram shops under the new law for the purpose of building a jail and also the bridge appropriation, having been questioned in a legal point of view, Prosecuting Attorney Francisco submitted the question to the Attorney General of the state and has received the following reply:

STATE OF MISSOURI, OFFICE OF ATTORNEY GENERAL, CITY OF JEFFERSON OCT. 9, 1883. MR. S. P. FRANCISCO, BUTLER, Mo.

DEAR SIR:—The answer to yours of the 1st, has been delayed on account of my absence and the demands of other business. My opinion is requested as to the power of the county court to appropriate the taxes received upon dramshop licenses to the purpose of the building of a jail and bridges in the county. The question in its simplest form is, is there any statutory authority for such appropriations? Has this power been conferred upon the county court by any act of the legislature now in force and applicable to your case? I think not. Sec. 5324, R. S., comes nearer to conferring such authority than any other provision that I know of. It declares that "wherever the county court of any county shall think it expedient to erect any of the building afore said * * * and there shall be sufficient funds in the county treasury for that purpose, not otherwise appropriated, or the circumstances of the county will otherwise permit, they shall make an order for the building thereof, etc." It will be observed that this art. 2 of chap. 95 was not revised, but merely compiled by the committee. See tables, p. 1667, R. S. It follows that revised acts being later must prevail, if there requirements conflict in any manner with the unrevised acts. Sec. 6818 and 6819 are both mandatory in their provisions, (I entertain no doubt of the correctness of this proposition, having carefully examined the question, but must omit the reasons) and make it the imperative duty of the county court once a year to appropriate, apportion and subdivide all the revenues collected and to be collected, and moneys received and to be received, etc." In view of this provision which is in full force, it can not be said that these license taxes which go into the county treasury as any other county revenues and become a part thereof, are not otherwise appropriated," using the language of sec. 5324, supra, even granting that this latter section is in full force, which I do not think the case. But, again, supposing the last mentioned section to be in force, can it be said that the circumstances of your county will otherwise permit this disposition of this money, when you are about two thousand dollars in debt? It does seem so to me. For these are debts or claims against the county and if allowed by the court must be paid up according to the order in which they are allowed and on of the funds mentioned in the warrant. Secs. 5370 and 6819. If the effect of such an order be to defer the payment of these debts, as you term them, it certainly could not be done. It is proper that I should remark, however, in order not to be misunderstood, that if the taxes referred to are sub-divided as required by secs. 6818 6819, supra, then a part of said funds may be used for bridge purposes, under sub-division two of said sec. 6818, according to the provisions of chap. 84, R. S. and amendments thereto. See act of Mar. 14, 1883, Sess. acts, p. 31. Finally I am of the opinion that there is no provision of the statutes authorizing the appropriation of the license tax to the erection of jails, nor is there any provisions by which it may be directly applied to the building of bridges, without first being appropriated, etc., as above stated. With respect to the powers of county courts I would respectfully call your attention to the following: "County courts are only agents of the county, with no powers, except what are granted, defined and limited by law and like all other agents they must pursue their authority act within the scope of their powers. 23 Mo. 483; 26 Mo., 272; 48

Mo., 167 "The county court can only exercise such powers as are conferred on it by statute." 56 Mo., 126-129. "And they are only agents of their respective counties in the manner and to the extent prescribed by law. So long as they continue to tread in the narrow pathway allotted to their feet by legal enactment, their acts are valid; but whenever they step beyond their acts are void." 61 Mo., 237-239.

Since answering yours of the 1st, in the above yours of the 8th has been received. You will see that according to my opinion the money derived from dramshop license should be sub-divided, and apportioned like any other moneys. If this were done then the duty of the treasurer would plainly be to pay the warrants. But the order of the county court is void, and the best thing they can do is to rescind it. The treasurer must pay the money in the treasury out as directed by the statute and not according to unauthorized orders of the county court. See sec. 5370 and act of March 3, 1881, Sess. acts, p. 94. Respectfully,

D. H. MCINTYRE, Attorney General.

State's Attorney.

An evening's enjoyment.—As everyone expected, the Academy of Music was crowded and overflowing last night; drawn there mainly to see John Dillon as "Pilgrim Boggs," in the play of "State's Attorney." The audience was disappointed in the fact, that although Dillon is an old time favorite here, his inimitable acting last night wreathed fresh laurels to his old time chaplets of popularity: the members of the company demonstrated that, collectively, they are a galaxy of stars in their various specialties. The honors were equally divided between Mr. Dillon, as the pettifogging, euphonic and effervescent attorney, and Mrs. Walters, as the sympathetic, frolicking, good natured school marm, and Mr. McVeagh, as the ideal, old time bluff representative mumer, a type of men rapidly disappearing from the real stage. The audience were kept busy wavering and changing from uproarious laughter, to tears and sympathy. State's Attorney abounds in extremes of of character, which affords a pleasant and recreative evening's enjoyment, such as is rarely offered the amusement going public.—Council Bluffs *Nonpareil*.

Walton's opera house Oct. 25, 1883, one night only. Admission 50 cents, reserved seats 75 cents.

The *North American Review* for November, by its liveliness and the sterling worth of the articles it contains, satisfies the requirements of the most exacting reader. Senator H. B. Anthony writes of "Limited Suffrage in Rhode Island." Dr. Norvin Green, President of the Western Union Company, in an article entitled "The Government and the Telegraph." The Rev. David N. Utter brings out from oblivion the record of certain alleged atrocious crimes of "John Brown of Osawatimie." There are two scientific articles, namely, "Solar Physics," by Professor Balfour Stewart, and "Modern Explosives," by Gen. John Newton. W. H. Mallock contributes "Conversations with a Solitary," an imaginary passage-at-arms between a Radical and a Conservative, in which the two opposing theories of government and society are advocated with rare spirit and ingenuity of argument. In "Suggestions in regard to the 'Public Service,'" Green B. Raum offers certain facts going to prove that the clerks and other employees of the government departments at Washington even before the passage of the Civil Service act, were in the main both faithful and efficient. Finally, "Dr. Hammond's Estimate of Woman," is reviewed by Mrs. Lillie Devereux Blake, Miss Nina Morris, Mrs. Sara A. Underwood and Dr.

Clemence S. Lozier. Fifty cents a copy; \$5 a year. Published at 30 Latayette Place, and sold by news-dealers generally.

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"My wife was cured of Liver complaint and disordered blood, with Marsh's Golden Blood and Liver Tonic. It is the best of all remedies."—(James J. Wright Des Moines, Iowa.

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was in town Sunday, but that has no significance when contrasted with Aaron Harts known reputation for good goods at low prices.

The finest selection of top buggies at R. R. DEACONS 46tf.

Jacksons Liniment works wonders: Gus Wyard keeps it.

A car load of new Racine wrought iron gear spring wagons, the best on earth at R. R. DEACONS. 46tf.

A car load genuine "Scutt" Steele Barb wire at R. R. DEACONS. 46tf.

Just Immense.

Those gold pens, pencils, tooth-picks, just received at Maynard's. Call and see them. 45tf.

The big red hames is the bass at GUS WYARD. 42-tf

The sign of the red hames is the best place to get harness at GUS WYARD. 42-tf

Just received the largest and best selected stock of Holiday Books and Toys ever come to Butler, at M. A. Maynards. 45tf.

Pure Kentucky whiskey, for medical and family use. LEWIS HOFFMAN 36-tf. North Main St.

If you have a lame horse get a bottle of Jackson's Liniment, at Gus Wyards.

The best dollar collar at the sign of the red hame. GUS WYARD. 42-tf

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On real estate security 1 to 5 years time at six per cent interest and small commission Terms to suit the borrower. 35tf. Sims & Tucker.

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Try Jacksons Liniment at Gus Wyards.

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Go to Crouch Bros. shop, near southwest corner of the square. They have a neat, comfortable room. 35-tf

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